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FISCAL IMPACT STATEMENT

LS 6950

BILL NUMBER: SB 225

NOTE PREPARED: Jan 1, 2010

BILL AMENDED:

SUBJECT: Marion County Government.

FIRST AUTHOR: Sen. Merritt

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Cemetery Maintenance, Weed Control, and Parks and Recreation: It provides that in a county having a consolidated city, the township duties and responsibilities concerning cemetery maintenance, weed control, and parks and recreation are transferred to the county on January 1, 2011.

Township Assistance: It provides that beginning January 1, 2013, in a county having a consolidated city, the Health and Hospital Corporation shall administer township assistance on a countywide basis.

Township Constable: It provides that effective January 1, 2011, the operations of the township constable shall be accounted for in the county budget. It adds training requirements for constables.

Township Trustee and Township Board: It provides that in a county having a consolidated city, the offices of township trustee and township board are abolished effective January 1, 2013. It specifies that in a county having a consolidated city, the term of each township trustee and township board member elected at the November 2010 election expires January 1, 2013.

Fire Departments and Fire Protection Territories: It provides that on January 1, 2013, the fire departments of all of the following are consolidated into the fire department of the consolidated city: (1) The townships in the county having the consolidated city. (2) A fire protection territory in the county having the consolidated city.

It provides that a transfer of duties between units of government results in the transfer of property,

equipment, records, rights, contracts, and indebtedness. It provides that indebtedness related to fire protection services incurred before the effective date of the consolidation by an entity whose fire department is consolidated into the consolidated fire department shall be assumed by the consolidated city.

It deletes a law specifying that indebtedness related to fire protection services that is incurred by the consolidated city before the effective date of the consolidation remains the debt of the consolidated city and that property taxes levied to pay the debt may be levied only by the fire special service district.

It specifies that it is the policy of the consolidated fire department and the consolidated law enforcement department that fire protection services and law enforcement services are best performed by a workforce that represents the community served by those departments. It requires the executive of the consolidated city to institute revised procedures, subject to the review and approval of the legislative body of the consolidated city, to ensure that hiring and promotional practices achieve that policy.

Residency Requirement: It provides that an individual who becomes a member of the police department or fire department of the consolidated city after June 30, 2010, must reside within the county having the consolidated city.

Excluded City Fire Department: It authorizes the consolidation of an excluded city's fire department into the fire department of the consolidated city if: (1) the legislative body of the excluded city, after approval by the executive of the excluded city, adopts a resolution approving the consolidation; and (2) the legislative body of the consolidated city adopts an ordinance, approved by the mayor of the consolidated city, approving the consolidation.

Small Claims Court: Effective January 1, 2012, it transfers responsibilities concerning township small claims courts located in a consolidated city to the county. It provides that a transfer of duties between the townships and the county results in the transfer of property, equipment, records, rights, contracts, and indebtedness. It repeals provisions concerning the nine Marion County township small claims courts.

Indebtedness: It exempts from the property tax levy limits any amounts imposed by the consolidated city or the county to fund former township indebtedness.

Maximum Property Tax Levy: It provides that the maximum property tax levy of a consolidated city for property taxes first due and payable in 2013 shall be increased by an amount equal to the combined property tax levies of each township and fire protection district for property taxes first due and payable in 2012 for fire protection and related services. It adjusts the maximum property tax levy for the county for property taxes payable in 2013. It requires the Department of Local Government Finance (DLGF) to adjust maximum permissible property tax levies and property tax rates as necessary to account for transfers of duties, powers, and obligations.

Tax Rate for Debt: It provides that before January 1, 2019, the consolidated city may levy a tax above the tax rate set for the consolidated fire department in each township that is necessary to phase out that township's borrowing for fire and emergency services under IC 36-6-6-14 and any other emergency or temporary loans by the township for fire and emergency services. It provides that after December 31, 2018, the tax rate for the consolidated fire department must be uniform within the entire service area served by the consolidated fire department.

Excess Funds: It requires the DLGF to determine whether the balance in each fund (other than a debt service

fund) of a township in a county having a consolidated city is in excess of the amount needed by the township to carry out the purposes of the fund. It specifies the factors to be considered by the DLGF in making the determination. It requires a township to transfer 90% of any excess amounts to the county treasurer for deposit in a township infrastructure fund that is administered by the controller of the consolidated city.

Township Infrastructure Fund: It specifies that money in a township infrastructure fund may be used by the county, upon appropriation by the county fiscal body, only for infrastructure within the township from which the money was transferred.

Building Authority: It specifies that in a county having a consolidated city, the annual operating budget of a building authority is subject to review and approval by the city-county legislative body.

It makes conforming amendments.

Effective Date: Upon passage; July 1, 2010; January 1, 2011; July 1, 2011; January 1, 2013.

Explanation of State Expenditures: *Law Enforcement Training Board:* The bill could increase costs for the Law Enforcement Training Board to create and offer a 40-hour training course for and keep a log of all constables and deputy constables who have been trained and receive badges. In addition, the Board would provide a seven-hour annual course. The Board is required by statute to meet at least four times a year, but typically, the Board meets six times a year. Board members are entitled to a per diem and travel expenses related to Board service. [The Indiana Law Enforcement Academy (ILEA) received an appropriation of \$4.4 M in state General and dedicated funds for FY 2010 and FY 2011.]

Department of Local Government Finance: DLGF may incur additional cost to adjust the maximum permissible property tax levies and property tax rates of units to reflect transfers of duties and responsibilities, to review balances in township funds and determine if an excess balance exists, and to determine the amount to be transferred from the township fire general funds to the county fire general fund. The bill's requirements are within the DLGF's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Explanation of State Revenues:

Explanation of Local Expenditures: *Summary-* The bill has indeterminate fiscal impact on Marion County for the transfer of township powers and duties, and it will increase costs for constable training. The bill does not delete or diminish any responsibilities or administrative functions currently assigned in statute to township trustees, township boards, township small claims courts, or other entities, but rather transfers the responsibilities to the county. If the county can perform or contract for the performance of the duties and administrative functions of the townships or other consolidating entity more efficiently, cost savings will result.

Additional Details- Abolishing Townships: Township government in Marion County will be dissolved by the bill, and its duties and powers are conveyed to the county beginning on January 1, 2013. Township trustees and township boards are abolished by the bill, and all functions, duties, and responsibilities of the township trustee and board are transferred to the county executive. The assets, property rights, equipment, records, personnel, and contracts are to transfer to the county executive, as well. Beginning on July 1, 2010, or January 1, 2011, designees of the county executive, the health and hospital corporation, and the county

auditor are to begin meeting with township trustees to effectuate the transition. The following actions are to occur to abolish township government:

Funds Transfers: Township debt service fund balances are to transfer to the county to pay any indebtedness or lease rental obligation for which the fund was established. Any remaining balance in the fund after debt is paid transfers to the county general fund. The township general fund balances, other than funds concerning fire protection, transfer to the county executive, and the township assistance fund balances transfer to the county township assistance fund. The county is to pay expenses for township cemeteries from the appropriate county fund.

Township Assistance: The Health and Hospital Corporation (HHC) is to administer township assistance throughout the county with the same powers and the same standards and requirements on an applicant or recipient of township assistance as a township trustee. The board of the HHC is to create a Bureau of Public Assistance to administer township assistance. An application for township assistance without a final decision entered by December 31, 2012, is to be treated as a new application. The HHC is to estimate the cost of township assistance for the following year and the county legislative body is to adopt with the county budget a uniform county tax rate to meet the estimated costs.

Weed Control, Detrimental Plants, and Partition Fencing: The bill provides that the county legislative body prescribes the membership of the weed control board and a cooperative extension agent advises the board in a nonvoting capacity. The department of code enforcement is to make inspections and reports to the weed control board. The county legislative body is to designate by ordinance the county official who will administer provisions concerning detrimental plants and the funds that will be used for this purpose. The county budget after 2011 must contain an amount sufficient to enable the designated county official to comply with statutory requirements. Also, the legislative body will determine the county official to administer provisions concerning partition fencing.

Township Fire Departments and Fire Protection Districts: The county is to assume the functions, duties, and responsibilities to provide fire protection and related services in the consolidated city on January 1, 2013.

Excluded City Fire Consolidation: The legislative body of an excluded city may adopt a resolution and with the approval of the executive of the excluded city, consolidate fire services with the fire department of a consolidated city. The legislative body of consolidated city may adopt an ordinance to approve the consolidation with the approval of the mayor. All property, equipment, records, rights, and contracts of the excluded city fire department are transferred to the consolidated city on the effective date. Real property only transfers on terms mutually agreed to by the legislative body and mayor or executive of the excluded city and the consolidated city.

Marion County Small Claims Courts: The judges of the small claims court will continue to be elected to a four-year term of office. After December 31, 2011, a small claims case may be heard in any small claims court. The county auditor will provide clerks for the small claims courts.

Judge Salaries: Full-time judge salaries are to be set by the city-county council, and part-time judge salaries are to be determined by the city controller and approved by the city-county council. Judge salaries are payable in 12 equal monthly installments.

Constables: A small claims court constable and deputy constables are to file annually statements of

economic interest and complete required initial and annual training. While the ILEA does not charge agencies for basic training, the schedule of fees for in-service training ranges between \$175 and \$375 for a 40-hour class. Differences in cost depend on residency at the ILEA

[Constables are currently paid from the service of process fee, which is \$13, whether delivered in person or by certified mail.]

Explanation of Local Revenues: *County Township Assistance Fund:* The health and hospital corporation is to establish a township assistance fund that is funded by a tax on all county property. The fund is used to pay the expenses and obligations set forth in the annual budget and money in the fund at the end of the year does not revert to the county general fund.

County Cemetery Tax: The county may levy a county cemetery tax to create a fund to maintain cemeteries. If the tax is not levied or is insufficient, the county general fund may be used.

Township Fire Department and Fire Protection District Funds: The balance in a township fire debt service fund is transferred to the city to pay the indebtedness or lease rentals for which the fund was established. Any balance remaining after all payments are made is to be transferred to the county general fund. The townships' general fire fighting and fire cumulative fund balances also transfer to the city for deposit in like funds.

Maximum Property Tax Levies and Other Tax Distributions: The maximum levy is to be adjusted to reflect the transfer of fire protection responsibilities to the consolidated city. Distributive shares of taxes other than property taxes, such as local option income tax, financial institutions tax, and motor vehicle excise tax, will transfer to the city. From CY 2013 through CY 2018 the city would be permitted to levy an additional tax in each township to pay outstanding debt related to fire and emergency services in that township. Beginning in CY 2019, the city's fire tax rate must be uniform within the entire service area.

Excess Fund Balance: The township executive is to transfer 90% of any excess fund balance in a township fund (other than a debt service fund) as determined by the DLGF to the county treasurer. The county treasurer places the transferred amount in a dedicated fund that may be appropriated by the county fiscal body for acquiring, constructing, improving, or maintaining infrastructure in the township from which the balance was transferred.

Court Fees: Court fees will remain unchanged, but will be paid to the controller of the consolidated city. Fees collected for court administration and judicial salaries are to be deposited in the county general fund, small claims courts account. After December 31, 2011, 40% of the court administration fees are used for the operation of small claims courts. In 2008, Marion County small claims courts generated a total of \$5.07 M, including \$1.6 M in state funds, \$101,000 in county funds, and \$3.33 M in local funds. The local funds would instead go to the county under the bill. Additionally, in 2008, Marion County small claims court received \$597,433 for serving process by certified mail and almost \$1.5 M for service of process by personal service. These amounts are to be paid directly to the constables.

State Agencies Affected: ILEA; DLGF.

Local Agencies Affected: Marion County.

Information Sources:

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